99TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT 99-682
Part 5

IMMIGRATION CONTROL AND LEGALIZATION AMENDMENTS ACT OF 1986

AUGUST 5, 1986.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. DE LA GARZA, from the Committee on Agriculture, submitted the following

REPORT

[To accompany H.R. 3810]

[Including cost estimate of the Congressional Budget Office]

The Committee on Agriculture, to whom was referred the bill (H.R. 3810) to amend the Immigration and Nationalty Act to revise and reform the immigration laws, and for other purposes, having considered the same and the amendment thereto reported by the Committee on the Judiciary, report those provisions of the bill, as amended, within the jurisdiction of the Committee with amendments and recommend that the provisions as amended be agreed to.

The amendments (stated in terms of page and line numbers of the bill as reported by the Committee on the Judiciary) are as follows:

AMENDMENT NO. 1

Page 43, after line 2, insert the following new section (and insert a corresponding item in the table of contents):

SEC. 114. RESTRICTING WARRANTLESS ENTRY IN THE CASE OF OUTDOOR AGRICULTURAL OPERATIONS.

Section 287 (8 U.S.C. 1357) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provison of this section other than paragraph (3) of subsection (a), an officer or employee of the Service may not enter without the consent of the owner (or agent thereof) or a properly executed warrant onto the premises of a farm or other outdoor agricul-

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tural operation for the purpose of interrogating a person believed to be an alien as to the person's right to be or to remain in the United States.".

AMENDMENT NO. 2

Page 61, after line 14, insert the following new subsection:

(d) GAO REPORTS.—

(1) REPORT ON CURRENT PILOT PROJECTS.—The Comptroller General shall—

(A) examine current pilot projects relating to the System for Alien Verification of Eligibility (SAVE) operated by, or through cooperative agreements with, the Immigration and Naturalization Service, and

(B) report, not later than October 1, 1987, to Congress and to the Commissioner of the Immigration and Naturalization Service concerning the effectiveness of such projects and any problems with the implementation of such projects, particularly as they may apply to implementation of the system referred to in subsection (c)(1).

(2) REPORT ON IMPLEMENTATION OF VERIFICATION SYSTEM.—The Comptroller General shall—

(A) monitor and analyze the implementation of such system,

(B) report to Congress and to the appropriate Secretaries described in subsection (c)(4)(D)(ii), by no later than April 1, 1989, on such implementation, and

(C) include in such report such recommendations for changes in the system as may be appropriate.

Page 61, line 7, strike "The amendments" and insert "Except as provided in paragraph (4), the amendments".

Page 61, after line 10, insert the following new paragraph (and redesignate the succeeding paragraph accordingly):

(4) USE OF VERIFICIATION SYSTEM NOT REQUIRED FOR A PROGRAM IN CERTAIN CASES.—

(A) REPORT TO RESPECTIVE CONGRESSIONAL COMMITTEES.—With respect to each covered program (as defined in subparagraph (D)(i), each appropriate Secretary shall examine and report to the appropriate Committees of the House of Representatives and of the Senate, by not later than April 1, 1988, concerning whether (and the extent to which)—

(i) the application of the amendments made by subsection (a) to the program is cost-effective and otherwise appropriate, and

(ii) there should be a waiver of the application of such amendments under subparagraph (B).

The amendments made by subsection (a) shall not apply with respect to a covered program until 6 months after the date of receipt of such report with respect to the program.

(B) WAIVER IN CERTAIN CASES.—If, with respect to a covered program, the appropriate Secretary determines, on the Secretary's own initiative or upon an application by an administering entity and based on such information as the Secretary deems persuasive (which may include the results of the report required under subsection (d)(1) and information contained in such an application), that—

(i) the appropriate Secretary or the administering entity has in effect an alternative system of immigration status verification which—

(I) is as effective and timely as the system otherwise required under the amendments made by subsection (a) with respect to the program, and

(II) provides for at least the hearing and appeals rights for beneficiaries that would be provided under the amendments made by subsection (a), or

(ii) the costs of administration of the system otherwise required under such amendments exceed the estimated savings,

such Secretary may waive the application of such amendments to the covered program to the extent (by State or other geographic area or otherwise) that such determinations apply.

(C) BASIS FOR DETERMINATION.—A determination under subparagraph (B)(ii) shall be based upon the appropriate Secretary's estimate of—

(i) the number of aliens claiming benefits under the covered program in relation to the total number of claimants seeking benefits under the program,

(ii) any savings in benefit expenditures reasonably expected to result from implementation of the verification program, and

(iii) the labor and nonlabor costs of administration of the verification system,

the degree to which the Immigration and Naturalization Service is capable of providing timely and accurate information to the administering entity in order to permit a reliable determination of immigration status, and such other factors as such Secretary deems relevant.

(D) DEFINITIONS.—In this paragraph:

(i) The term "covered program" means each of the following programs:

(I) The aid to families with dependent children program under part A of title IV of the Social Security Act.

(II) The medicaid program under title XIX of the Social Security Act.

(III) The supplemental security income program under title XVI of the Social Security Act.

(IV) Any State program under a plan approved under title I, X, XIV, or XVI of the Social Security Act.

(V) The unemployment compensation program under section 3304 of the Internal Revenue Code of 1954.

(VI) The food stamp program under the Food Stamp Act of 1977.

(VII) The programs of financial assistance for housing subject to section 214 of the Housing and Community Development Act of 1980.

(VIII) The program of grants, loans, and work assistance under title IV of the Higher Education Act of 1965.

(ii) The term "appropriate Secretary" means, with respect to the covered program described in—

(I) subclauses (I) through (IV) of clause (i), the Secretary of Health and Human Services;

(II) clause (i)(V), the Secretary of Labor;

(III) clause (i)(VI), the Secretary of Agriculture;

(IV) clause (i)(VII), the Secretary of Housing and Urban Development; and

(V) clause (i)(VIII), the Secretary of Education.

(iii) The term "administering entity" means, with respect to the covered program described in—

(I) subclause (I), (II), (IV), (V), or (VI) of clause (i), the State agency responsible for the administration of the program in a State;

(II) clause (i)(III), the Secretary of Health and Human Services;

(III) clause (i)(VII), the Secretary of Housing and Urban Development, a public housing agency, or another entity that determines the eligibility of an individual for financial assistance; and

(IV) clause (i)(VIII), an institution of higher education involved.

Brief Explanation of Committee Amendments

OUTDOOR AGRICULTURAL OPERATIONS

Officers of the Immigration and Naturalization Service will be prohibited from entering onto the premises of a farm or other outdoor agricultural operation to question a person believed to be an alien unless they have (1) consent of the owner or his agent or (2) a properly executed warrant. (Comm. Amdt. no. 1.)

USE OF VERIFICATION SYSTEM AND REPORTS

With respect to the bill's proposed system under which States will be required to verify the immigration status of aliens applying for specified public assistance programs—

(1) the Comptroller General will be required to study and report (by October 1, 1987) on current verification pilot projects, and (by April 1, 1989) on the Service's implementation of verification requirements under the bill;

(2) the Secretaries of the Federal departments overseeing the assistance programs will be required to report to the appropriate committees of Congress, by April 1, 1988, concerning whether the proposed State verification system is cost-effective and otherwise appropriate and whether the State verification requirements under the proposed system should be waived; and

(3) the Secretaries will be authorized to waive the applicability of the proposed State verification system to the assistance program involved, if (a) there is in effect an alternative system of verification that is effective and provides adequate appeal rights, or (b) the costs of the proposed system exceeds estimated savings under it.

The public assistance programs involved are the aid to families with dependent children program, medicaid, the supplemental security income program, certain State programs under the Social Security Act, the unemployment compensation program, the food stamp program, certain housing programs, and Higher Education Act assistance programs. (Comm. Amdt. no. 2.)

Purpose and Need

The Committee on Agriculture supports the provisions of H.R. 3810, as reported by the Committee on the Judiciary, on those matters within the Agriculture Committee's jurisdiction. Those matters include sections 101 and 112 (employee sanctions), 201 (benefits for aliens), 301 (H–2 reform), 302 and 303 (special agricultural workers program), (Commission), 305 (legal assistance to H–2A workers), 402 (Secretaries' report), and 403 and 404 (reports).

The Committee is pleased that a compromise agreement has been reached by Members of the Judiciary Committee and various other authorizing committees with regard to the H–2 agricultural program and the special agricultural workers program for perishable commodities. However, a provision in H.R. 3810, as introduced, to require the consent of the owner or a warrant prior to entering agricultural fields to interrogate suspected illegal aliens, was deleted during Judiciary Committee consideration of the bill. The Com-

mittee on Agriculture recommends that this provision be restored. Additionally, the Committee recommends, in conjunction with several other committees, improvements to that part of the legislation providing for a systematic alien verification for entitlements (SAVE) program for various Federal public assistance programs.

OUTDOOR AGRICULTURAL OPERATIONS

The Fourth Amendment to the Constitution forbids unreasonable searches and seizures, giving rise to a presumption that searches and seizures must be under a warrant issued by a magistrate. However, through the course of the years, the Supreme Court has recognized exceptional situations in which a warrant is not required. One of these exceptions is the so-called "open fields" doctrine that allows law enforcement officers to search an open field without a warrant.

Since *Hester* v. *United States,* 265 U.S. 57, in which this exception was recognized, the Supreme Court has in a number of cases reexamined and reiterated the *Hester* doctrine: there is no Constitutional protection against search and seizure in an open field.

Since Immigration and Naturalization Service policy treats agricultural lands as "open fields," there is now no requirement for Service enforcement officials to obtain a warrant prior to entering farms or ranches. However, this policy is unlike the policy applied to other places of business. Also, under this policy, one of the basic rights provided under the Constitution, the right of people to be secure against unreasonable searches and seizures, is being denied to an important segment of our society—farmers and ranches.

Further, according to the Department of Labor (based on the limited data available), of the millions of undocumented aliens in the United State, it is likely that most of them are in the labor market. However, of the 1.3 million apprehensions by the Immigration and Naturalization Service last year, only 110 thousand of these persons were actively employed and 72 percent of those employed were in agriculture. With the apparent large number of other undocumented aliens working in other industries, it is obvious that the Service's enforcement efforts are focused primarily in those areas easiest to access.

In addition, the surprise raids by the Service, in the Committee's view, have unduly harrassed agricultural employers and employees and, in a number of situations, have jeopardized the lives of workers. Such raids have caused damage to crops in many instances and unnecessary disruptions in employment. Work stoppages are costly to the farmer, especially in perishable commodities, when agricultural products cannot be harvested timely.

The Committee amendment no. 1 would require that a Service enforcement officer may not enter an outdoor agricultural operation for the purpose of questioning an alien without the consent of the owner or a search warrant.

This proposal has been carefully designed to ensure applicability only to agricultural operations. It ensures agricultural employers and employees equal protection under the law.

The amendment will not require a warrant in other cases relating to the arrest of an alien who appears to be in violation of the

Immigration and Nationality Act and is likely to escape before a warrant can be obtained. Neither does the amendment address warrantless entry to apprehend those committing a felony. Nor would the Committee amendment prevent immigration officers from entering property within 25 miles of our national borders without a warrant, for purposes of border patrol.

It should be noted that the Administration opposes the amendment because it is the view of the Immigration and Naturalization Service that the requirement for a warrant would curtail the enforcement activities of that agency. However, the Committee has not received convincing evidence to support the view that search warrant requirements or consent of the owner for entry into open agricultural lands would unduly hamper enforcement efforts.

The House of Representatives had declared its interest, in past immigration reform legislation, in correcting this injustice to farmers.

In 1984, the House Judiciary Committee reported H.R. 1510, the Immigration Reform and Control Act of 1983, which included a similar provision. A vote on the House floor on June 13, 1984, to strike the language restricting warrantless entry was rejectd by a substantial margin (133 ayes to 285 noes).

The ensuing House-Senate conference on that bill crafted a compromise amendment to restrict entry on farm or other agricultural operations unless there was consent of the owner or a properly executed warrant. However, no final agreement on other provisions of the bill was reached, so that Congress was unable to finalize its work on immigration reform legislation that year.

H.R. 3810, as introduced by Chairman Rodino of the Committee on the Judiciary, contained a provision identical to the Committee on Agriculture amendment.

A wide range of organizations, including fam, civil liberties, and labor organizations, support the amendment.

The Committee on Agriculture amendment, which is the same as that adopted by the House-Senate conferences in 1984, will ensure that agricultural employers and employees receive the clear and equal protections of the law currently accorded others against unreasonable searches and seizures.

USE OF VERIFICATION SYSTEM AND REPORTS

A major concern about the legalization procedures in the immigration reform proposals that Congress has considered in the past has been the possibility that Federal and State public assistance costs would be increased if persons not eligible for benefits under the legalization procedures applied for benefits and States were unable to verify whether these persons were eligible.

To avoid erroneous payments to persons ineligible for benefits, H.R. 3810, as reported by the Committee on the Judiciary, would require States beginning October 1, 1988, to verify whether alien applicants for certain public assistance programs are in a lawful immigration status and thus eligible for participation in the programs. This procedure is known as systematic alien verification for entitlements program (SAVE). Programs involved in SAVE would be: aid to families with dependent children (AFDC), medicaid, un-

employment compensation, certain State programs under the Social Security Act, food stamps, supplemental securilty income, housing assistance, and higher education assistance.

The Committee on Agriculture supports the SAVE procedures as an important safeguard to hold down public assistance costs. At the same time, the Committee wants to ensure that SAVE is implemented in a way that would not impose administrative burdens either on Federal agencies or the States unless there was some assurance that savings would result.

To ensure that the savings from avoiding erroneous benefit payments would exceed increased administrative costs the Federal Government and States would incur from implementing SAVE, the Agriculture Committee has approved an amendment to the SAVE provision to provide the following:

First, reports by the General Accounting Office would be required on both the pilot projects currently under way and the verification system that would be implemented starting in fiscal year 1989. The report on the pilot projects would be due not later than October 1, 1987. The report on implementation of SAVE would be due no later than April 1, 1989; and

Second, before SAVE could be implemented for specific programs in a State or geographic area, the Secretary of the administering Federal department would have to report whether SAVE would be cost-effective and otherwise appropriate and whether the SAVE provisions should be waived. This report would be submitted to the authorizing committees of Congress with jurisdiction over the program or programs affected in SAVE no later than April 1, 1988. SAVE could not be implemented for a given program until six months after receipt by Congress of the report. The Secretary with authority over a program or programs affected by SAVE could waive the application of the SAVE provisions in a State or other geographic area if it is determined that—

(1) there is in effect an alternative system of immigration status verification as effective and timely as SAVE; or

(2) the cost of administering SAVE would exceed the estimated savings.

Section-by-Section Analysis of the Committee Amendments

Amendment No. 1—Outdoor Agricultural Operations

Committee amendment No. 1 will add a new section 114 to H.R. 3810, as reported by the Committee on the Judiciary. New section 114 would add a new subsection (d) to section 287 of the Immigration and Nationality Act.

Under current law, section 287, in subsection (a), provides that officers and employees of the Immigration and Naturalization Service have the power without warrant to—

(1) interrogate any alien or person believed to be an alien as to his right to be in the United States (paragraph (1));

(2) arrest any alien crossing the border illegally in his presence, or any alien in the United States he has reason to believe is violating the immigration laws and is likely to escape before an arrest warrant can be issued (paragraph (2));

(3) within a reasonable distance from the border, board and search vessels and other conveyances (paragraph (3));

(4) within 25 miles of the border, have access to private lands (but not dwellings) for the purpose of patrolling the border (paragraph (3));

(5) make arrests for any felony cognizable under the immigration laws if he has reason to believe that the person arrested is guilty of the felony and there is a likelihood that the person will escape before an arrest warrant can be issued (paragraph (4)).

Subsection (b) of section 287 authorizes officers and employees of the Service to administer oaths and to take and consider evidence concerning matters that are material or relevant to enforcing the Act. It also establishes penalties for false oaths. Subsection (c) authorizes designated officers or employees of the Service to search persons seeking admission to the United States and their personal effects.

Under new subsection (d), to be added under Committee amendment No. 1, officers and employees of the Service would be prohibited (except as described below) from entering the premises of a farm or other outdoor agricultural operation, without consent of the owner or his agent or a properly executed warrant, for the purpose of interrogating a person believed to be an alien as to the person's right to be or to remain in the United States. The prohibition would not apply to activities empowered under paragraph (3) of subsection (a), that is, searches of conveyances within a reasonable distance of the border and access to private lands within 25 miles of the border as a part of border patrol.

AMENDMENT NO. 2—USE OF VERIFICATION SYSTEM AND REPORTS

Committee amendment No. 2 will add a new subsection (d) to, and revise subsection (c) of, section 121 of H.R. 3810, as reported by the Committee on the Judiciary, relating to verification of alien status under certain programs.

Subsection (a) of section 121, as reported by the Judiciary Committee, will amend section 1137 of the Social Security Act and other provisions of law to require the States to verify the immigration status of aliens applying under certain public assistance programs, including aid to families with dependent children (AFDC), medicaid, unemployment compensation, food stamps, supplemental security income (SSI), housing assistance, and title IV educational assistance. Under subsection (a), alien applicants will have the opportunity to submit evidence as to immigration status without denial or termination of benefits until evidence of status has been verified. Also, States will not be liable for the consequences or verification.

Subsection (b) of section 121, as reported by the Judiciary Committee, will amend the assistance program statutes involved to provide for 100 percent reimbursement to the States for implementing the status verification system to be established under subsection (a).

Subsection (c) of section 121, as reported by the Judiciary Committee, in paragraph (1), will require the Immigration and Natural-

ization Service to implement its system for alien status verification, by October 1, 1987. It also will prohibit the use of the Service's system for certain enforcement purposes, and require that it be implemented in a nondiscriminatory manner. Subection (c), in paragraph (2), will make the State reimbursement provisions of subsection (b) effective October 1, 1987. Subsection (c), in paragraph (3), provides that the States will have until October 1, 1988, to comply with requirements imposed under subsection (a). Subsection (c), in paragraph (4), will authorize funding for the Service to carry out section 121.

Under new subsection (d), to be added by Committee amendment No. 2, two studies and reports by the Comptroller General will be required, as follows:

(1) *Report on current pilot projects.*—The Comptroller General will be required to—

(A) examine current pilot projects relating to the system for alien verification of eligibility (SAVE) (the matter addressed by section 121) operated by, or through cooperative agreements with, the Service, and

(B) report, not later than October 1, 1987, to Congress and to the Commissioner of the Immigration and Naturalization Service concerning the effectiveness of such projects and any problems with the implementation of such projects, particularly as they may apply to implementation of the Service's verification system referred to in paragraph (1) of subsection (c).

(2) *Report on implementation of verification system.*—The Comptroller General will be required to—

(A) monitor and analyze the implementation of the Service's verification system,

(B) report to Congress and to the Federal departmental Secretaries hat oversee the assistance programs covered by subsection (a), by not later than April 1, 1989, on such implementation; and

(C) include in such report any recommendatins for change in the Service's system as may be appropriate.

Committee amendment No. 2 will amend paragraph (3) of subsection (c), as reported by the Judiciary Committee, to provide that the October 1, 1988, effective date for the amendments made by subsection (a) and for the requirements applicable to the States thereunder will be subject to the provisions of new paragraph (4).

Committee amendment No. 2 also will add, to subsection (c), a new paragraph (4), entitled "Use of verification system not required for a program in certain cases". Current paragraph (4) will be redesignated as paragraph (5).

Under new paragraph (4), with respect to each covered program (as defined in paragraph (4) and described below), each appropriate Secretary (as defined in paragraph (4) and described below) must examine and report to the appropriate Committees of the House of Representatives and of the Senate, by not later than April 1, 1988, concerning whether (and the extent to which)—

(1) the application of the amendments made by subsection (a) to the program is cost-effective and otherwise appropriate, and

(2) there should be a waiver of the application of such amendments.

The amendments made by subsection (a) would not apply with respect to a covered program until six months after the date of receipt of such report with respect to the program.

Also under new paragraph (4), if, with respect to a covered program, the appropriate Secretary determines, on the Secretary's own initiative or an application by an administering entity (as defined in paragraph (4) and described below) and based on information the Secretary deems persuasive (which may include the results of the Comptroller General's report on current status verification projects to be required under new subsection (d) and information contained in the application), that—

(1) the appropriate Secretary of the administering entity has in effect an alternative system of immigration status verification that—

(A) is as effective and timely as the system otherwise required under the amendments made by subsection (a) with respect to the program; and

(B) provides for at least the hearing and appeals rights for beneficiaries that would be provided under the amendments made by subsection (a), or

(2) the costs of administration of the System otherwise required under such amendments exceed the estimated savings,

the Secretary could waive the application of such amendments to the covered program to the extent (by State or other geographic area or otherwise) that such determinations apply.

A determination as to whether the costs of administering a subsection (a) system will exceed estimated savings would be based on—

(1) the appropriate Secretary's estimate of—

(A) the number of aliens claiming benefits under the covered program in relation to the total number of claimants seeking benefits under the program,

(B) any savings in benefit expenditures reasonably expected to result from implementation of the verification program, and

(C) the labor and nonlabor costs of administration of the verification system;

(2) the degree to which the Immigration and Naturalization Service is capable of providing timely and accurate information to the administering entity to permit a reliable determination of immigration status; and

(3) other factors the Secretary deems relevant.

Paragraph (4) defines the term "covered program" to mean each of the following programs:

(1) The aid to families with dependent children program under Part A of title IV of the Social Security Act.

(2) The medicaid program under title XIX of the Social Security Act.

(3) The supplemental security income program under title XVI of the Social Security Act.

(4) Any State program under a plan approved under title I, X, XIV, or XVI of the Social Security Act.

(5) The unemployment compensation program under section 3304 of the Internal Revenue Code of 1954.

(6) The food stamp program under the Food Stamp Act of 1977.

(7) The programs of financial assistance for housing subject to section 214 of the Housing and Community Development Act of 1980.

(8) the program of grants, loans, and work assistance under title IV of the Higher Education Act of 1965.

Paragraph (4) defines the term "appropriate Secretary" to mean—

(1) the Secretary of Health and Human Services with respect to the aid to families with dependent children program, medicaid program, supplemental security income program, and State programs under title I, X, XIV, or XVI or the Social Security Act;

(2) the Secretary of Labor with respect to the unemployment compensation program;

(3) the Secretary of Agriculture with respect to the food stamp program;

(4) the Secretary of Housing and Urban Development with respect to the programs of financial assistance for housing; and

(5) the Secretary of Education with respect to the program under Higher Education Act of 1965.

Paragraph (4) defines the term "administering agency" to mean—

(1) the State agency reponsible for the administration of the program in a State, with respect to the aid to families with dependent children, medicaid, Social Security Act, unemployment compensation, and food stamp programs;

(2) the Secretary of Health and Human Services with respect to the supplemental security income program;

(3) the Secretary of Housing and Urban Development, a public housing agency, or another entity that determines the eligibility of an individual for financial assistance, with respect to the housing programs; and

(4) the institution of higher education involved, with respect to the Higher Education Act program.

Committee Consideration

On July 31, 1986, the Committee on Agriculture met, a quorum being present, to consider H.R. 3810, the Immigration Control and Legalization Amendments Act of 1986.

Chairman de la Garza noted that the Committee on Agriculture did not conduct public hearings on the legislation this year in view of previous hearings on immigration reform legislation in the last Congress. He pointed out the Members of the Committee had been working an ad hoc basis with Members of the Committee on the Judiciary in expediting action on the legislation and in promoting and protecting agricultural interests.

Congressman Panetta was recognized to discuss that section of the bill relating to temporary agricultural workers. He advised the Committee that compromise on the H-2 and special agricultural worker provisions of the bill had been reached among members from the committees of the House representing agricultural, labor,

and law enforcement jurisdiction areas. He stated that the compromise was endorsed by a broad cross-section of groups including the Farm Labor Alliance, the American Farm Bureau Federation, the H–2 Coalition, the AFL–CIO, as well as number of civil rights groups.

Congressman Morrison spoke briefly on past efforts of the Committee to provide, in immigration reform legislation, appropriate measures to protect the supply of workers in agriculture.

The Committee then proceeded to consider amendments to H.R. 3810, as reported by the Committee on the Judiciary.

Congressman Panetta offered an amendment on behalf of himself, and Congressmen Morrison and Coelho, to require consent of the owner or a search warrant before Immigration and Naturalization Service enforcement officers could enter a farm or other outdoor agricultural operation to interrogate any person believed to be an alien as to his right to be in the United States. He stated that this amendment had been part of the original bill but that it had been deleted by the Judiciary Committee during its consideration of H.R. 3810. He further noted that the amendment was needed to provide protection to farmers and farm employees under the Fourth Amendment of the Constitution and to prevent certain unwarranted tactics by the Service that jeopardize the lives of farmworkers.

Mr. Morrison discussed the inequity of having to secure a warrant for outdoor agricultural operations as opposed to any other place of employment. He and several other Members of the Committee expressed strong support for the amendment.

Mr. Volkmer expressed concern that the amendment did not address what was to be required of the Immigration and Naturalization Service to obtain a warrant. Mr. Staggers commented on the difficulty of describing an agricultural field to obtain a warrant. Other discussion of the amendment ensued, and counsel explained that the amendment required consent of the owner or warrant only where interrogation, not arrest, was concerned. The amendment was agreed to by voice vote.

Mr. Panetta offered a further amendment to that section of the bill relating to the systematic alien verification for entitlements program (SAVE). Under the legislation, States would be required to verify whether alien applicants for aid to families with dependent children, medicaid, unemployment compensation, State assistance under the Social Security Act, food stamps, supplemental security income, housing assistance, and higher education assistance are in a lawful immigration status and thus eligible to participate in the program. He noted that other authorizing Committees of the House had endorsed this or similar language. After an explanation of the provision, the Committee approved the amendment by voice vote.

Mr. Lewis was recognized to offer an amendment to the legalization section of the bill to change the date for temporary resident status from January 1, 1982, to January 1, 1978. In the discussion of the amendment that followed, Chairman de la Garza noted Committee jurisdictional problems and offered assistance of the Committee, if possible, in allowing Mr. Lewis to offer his amendment on the House floor. The amendment was then withdrawn.

A motion to favorably report the bill, with amendments to the bill as reported by the Committee on the Judiciary, was offered; and the Committee approved the motion by a voice vote.

Administration Position

At the time of the filing of this report, the Committee had not received a report from the Administration concerning H.R. 3810, as amended by the Committee on Agriculture.

Budget Act Compliance (Section 308 and Section 403)

The provisions of clause 2(l)(3)(B) of Rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 (relating to estimates of new budget authority or new or increased tax expenditures) are not considered applicable. The estimate and comparison required to be prepared by the Director of the Congressional Budget Office under clause 2(l)(3)(C) of Rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974 submitted to the Committee prior to the filing of this report are as follows:

U.S. Congress,
Congressional Budget Office,
Washington, DC, August 1, 1986.

Hon. E de la Garza,
Chairman, Committee on Agriculture, U.S. House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared this cost estimate for amendments to H.R. 3810, the Immigration Control and Legalization Amendments Act of 1986, as ordered reported by the House Committee on Agriculture on July 31, 1986. H.R. 3810 was ordered reported by the House Committee on the Judiciary on June 25, 1986.

This estimate provides the spending impacts of the Committee on Agriculture amendments to H.R. 3810. The original CBO estimate for H.R. 3810, as reported by the Committee on the Judiciary, is attached to provide background information. The table below shows the original estimate of H.R. 3810's impact on spending, the Committee on Agriculture changes to spending, and the resulting estimated spending, revenue, and federal deficit totals for the bill as amended.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

[By fiscal year, in millions of dollars]

	1986	1987	1988	1989	1990	1991
Judiciary bill:						
Required budget authority/estimated authorization level	434	655	1,170	1,885	2,201	2,277
Estimated outlays		480	819	1,779	2,348	2,475
Agriculture amendments:						
Required budget authority/estimated authorization level		(1)	(1)	(1)	(1)	(1)
Estimated outlays		(1)	(1)	(1)	(1)	(1)
Total spending:						
Required budget authority/estimated authorization level	434	655	1,170	1,885	2,201	2,277

ESTIMATED COST TO THE FEDERAL GOVERNMENT—Continued

[By fiscal year, in millions of dollars]

	1986	1987	1988	1989	1990	1991
Estimated outlays		480	819	1,779	2,348	2,475
Estimated revenues		70	166	54	54	
Net budget impact: estimated net increase or decrease (−) in the deficit		410	653	1,725	2,294	2,475

[1] Less than $500,000.

The Committee on Agriculture reported two amendments to H.R. 3810, neither of which is estimated by CBO to affect spending significantly.

The System for Alien Verification of Eligibility (SAVE), which would require a number of federal benefit programs to check with the Immigration and Naturalization Service as to the resident status of aliens applying for program benefits, was amended. These amendments would permit a program or jurisdiction not to use SAVE if waivers were granted by Department Secretaries. Waivers could be given if alternative verfication systems were found to be as effective or if the administrative costs of SAVE exceeded any estimated savings. Without knowing more about SAVE and the extent to which waivers might be granted, the CBO estimate assumed that savings and costs would be approximately offsetting. If the cost effectiveness of SAVE could be measured accurately and waivers granted accordingly, however, these amendments would be likely to result in federal budgetary savings.

In addition, an amendment to Title I would prohibit officers or employees of the Immigration and Naturalization Service from entering the premises of a farm or other outdoor agricultural operation without the consent of the owner or without a properly executed warrant. This amendment is not expected to have a significant budgetary impact.

If you wish further details on this estimate, please call me or have your staff contact Janice Peskin (226–2820).

With best wishes,

Sincerely,

RUDOLPH G. PENNER, *Director.*

INFLATIONARY IMPACT STATEMENT

Pursuant to clauses 2(l)(4) of Rule XI of the Rules of the House of Representatives, the Committee estimates that enactment of H.R. 3810, as amended by the Committee, will have no inflationary impact on the national economy.

OVERSIGHT STATEMENT

No summary of oversight findings and recommendations made by the Committee on Government Operations under clause 2(b)(2) of Rule X of the Rules of the House of Representatives was available to the Committee with reference to the subject matter specifically addressed by H.R. 3810, as amended by the Committee on Agriculture.

No specific oversight activities other than the hearings detailed in this report were conducted by the Committee within the definition of clause 2(b)(1) of Rule X of the Rules of the House of Representatives.

Changes in Existing Law Made by the Bill, As Reported

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, except as shown below, are shown in part 1 of this report, filed by the Committee on the Judiciary on July 16, 1986. The difference between the bill as reported by the Committee and as reported by the Committee on Judiciary are shown below using the following typographical devices (with "Judiciary" referring to the Committee on the Judiciary and "Agriculture" referring to the Committee on Agriculture):

Existing law in which no change is proposed by Judiciary or Agriculture, printed in roman.

New matter proposed to be inserted only by Agriculture (and not by Judiciary), printed in **boldface roman.**

Immigration and Nationality Act

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TITLE II—IMMIGRATION

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Chapter 9 Miscellaneous

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POWERS OF IMMIGRATION OFFICES AND EMPLOYEES

Sec. 287. (a) Any officer or employee of the Service authorized under regulations prescribed by the Attorney General shall have power without warrant—

(1) to interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States;

(2) to arrest any alien who in his presence or view is entering or attempting to enter the United States in violation of any law or regulation made in pursuance of law regulating the admission, exclusion, or explusion of aliens, or to arrest any alien in the United States, if he has reason to believe that the alien so arrested is in the United States in violation of any such law or regulation and is likely to escape before a warrant can be obtained for his arrest, but the alien arrested shall be taken without unnecessary delay for examination before an officer of the Service having authority to examine aliens as to their right to enter or remain in the United States;

(3) within a reasonable distance from any external boundary of the United States, to board and search for aliens any vessel within the territorial waters of the United States and any railway car, aircraft, conveyance, or vehicle, and within a distance of twenty-five miles from any such external boundary to have access to private lands, but not dwellings for the purpose of pa-

trolling the border to prevent the illegal entry of aliens into the United States; and

(4) to make arrests for felonies which have been committed and which are cognizable under any law of the United States regulating the admission, exclusion, or expulsion of aliens, if he has reason to believe that the person so arrested is guilty of such felony and if there is likelihood of the person escaping before a warrant can be obtained for his arrest, but the person arrested shall be taken without unnecessary delay before the nearest available officer empowered to commit persons charged with offenses against the laws of the United States. Any such employee shall also have the power to execute any warrant or other process issued by an officer under any law regulating the admission, exclusion, or expulsion of aliens.

(b) Any officer or employee of the Service designated by the Attorney General, whether individually or as one of a class, shall have power and authority to administer oaths and to take and consider evidence concerning the privilege of any person to enter, reenter, pass through, or reside in the United States, or concerning any matter which is matarial or relevant to the enforcement of this Act and the administration of the Service; and any person to whom such oath has been administered (or who has executed an unsworn declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28 United States Code), under the provisions of this Act, who shall knowingly or willfully give false evidence or swear (or subscribe under penalty of perjury as permitted under section 1746 of title 28, United States Code) to any false statement concerning any matter referred to in this subsection shall be guilty of perjury and shall be punished as provided by section 1621, title 18, United States Code.

(c) Any officer or employee of the Service authorized and designated under regulations prescribed by the Attorney General, whether individually or as one of a class, shall have power to conduct a search, without warrant, of the person, and of the personal effects in the possession of any person seeking admission to the United States, concerning whom such officer or employee may have reasonable cause to suspect that grounds exist for exclusion from the United States under this Act which would be disclosed by such search.

(d) Notwithstanding any other provision of this section other than paragraph (3) of subsection (a), an officer or employee of the Service may not enter without the consent of the owner (or agent thereof) or a properly executed warrant onto the premises of a farm or other outdoor agricultural operation for the purpose of interrogating a person believed to be an alien as to the person's right to be or to remain in the United States.

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62-647 (20)

99TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPT. 99-736
Part 1

ENHANCING EXPORTS OF UNITED STATES AGRICULTURAL COMMODITIES

AUGUST 2, 198[illegible] —Ordered to be printed

Mr. DE LA GARZA, from the Committee on Agriculture, submitted the following

REPORT

[To accompany H.R. 5242]

The Committee on Agriculture, to whom was referred the bill (H.R. 5242) to enhance exports of United States agricultural commodities, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Agricultural Export Act of 1986".

EXPORT ENHANCEMENT PROGRAM—PARTICIPATION

SEC. 2. Effective for the period ending September 30, 1988, paragraph (2) of section 1127(b) of the Food Security Act of 1985 (7 U.S.C. 1736v(b)) is amended to read as follows:

"(2) to the extent that agricultural commodities and products thereof are to be provided to foreign purchasers during any fiscal year, shall—

"(A) permit participation in the program by foreign purchasers who (i) traditionally have purchased United States agricultural commodities and the products thereof, (ii) maintain trade relations with the United States, and (iii) after July 30, 1986, comply with minimum purchase requirements under long-term grain agreements; and

"(B) give priority to interested foreign purchasers who (i) traditionally have purchased United States agricultural commodities and the products thereof and continue their historic levels of imports of United States agricultural commodities and the products thereof, or (ii) begin to purchase such commodities and the products thereof on an annual basis in quantities greater than the level of purchases in a previous representative period;".

EXPORT ENHANCEMENT PROGRAM—REQUIREMENTS

SEC. 3. Section 1127(i) of the Food Security Act of 1985 (7 U.S.C. 1736v(i)) is amended by—

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(1) designating the first sentence thereof as paragraph (1);
(2) striking out the second sentence thereof; and
(3) adding at the end thereof the following:

"(2) To the maximum extent practicable, the Secretary shall (A) use such commodities and products to carry out this section in equal amounts during each of the years in the period specified in paragraph (1), and (B) use an amount of commodities and products with a cumulative value of not less than $667,000,000 to carry out this section during the period ending September 30, 1987.".

REPORT AND RECOMMENDATIONS REGARDING PARTICIPATION IN THE EXPORT ENHANCEMENT PROGRAM

SEC. 114. The Secretary of Agriculture shall submit a report to Congress, by March 31, 1987, that lists countries that are major traditional purchasers of United States agricultural commodities and the products thereof but have not participated in the program under section 1127, and that includes such information that the Secretary may have, and the Secretary's views, with respect to each country on the list, as to the reasons why such country did not participate in the program.

EXPORT ENHANCEMENT PROGRAM—RESALE, TRANSSHIPMENT, AND USE OF COMMODITIES

SEC. 5. Section 1127(b)(4) of the Food Security Act of 1985 (7 U.S.C. 1736v(b)(4)) is amended by inserting "except as approved by the Secretary" before the semicolon.

BRIEF EXPLANATION

H.R. 5242, as reported, will—

(1) provide that under the export enhancement program (EEP) authorized by the Food Security Act of 1985, effective for the period ending September 30, 1988, the Secretary of Agriculture must (A) permit participation by all traditional foreign purchasers of United States agricultural commodities who, after July 30, 1986, comply with minimum purchase requirements under long-term grain agreements, and maintain trade relations with the United States, and (B) give priority to interested foreign purchasers who traditionally have purchased U.S. agricultural commodities and products and continue to purchase at historic levels, or who begin to purchase in quantities greater than the level of purchases in a previous representative period;

(2) to the maximum extent practicable, require the Secretary to use an amount of United States agricultural commodities and products with a cumulative value of not less than $667,000,000 to carry out the export enhancement program during fiscal years 1986 and 1987;

(3) require the Secretary to report to Congress, by March 31, 1987, with a list of the countries that are major traditional purchasers of United States agricultural commodities that have not participated in the program, and information about why each listed country did not participate in the program; and

(4) allow the Secretary, on a case-by-case basis, to approve the resale or transshipment to other countries, or use for other than domestic use in the importing country, of agricultural commodities exported under the program.

PURPOSE AND NEED

The purpose of H.R. 5242 is to enhance the competitive position of United States agricultural exports in world markets, especially in markets that have been lost due to the use of subsidies and

other unfair trading practices of other countries. The bill will also ensure that the export promotion activities of the United States are implemented in a nondiscriminatory manner to all traditional purchasers of United States agricultural commodities.

On May 15, 1985, the U.S. Department of Agriculture announced an export enhancement program (EEP) under which $2 billion in surplus Commodity Credit Corporation stocks would be available to foster commercial agricultural export sales. According to guidelines established by the Administration's interagency Economic Policy Council, each initiative under the program is to meet the following criteria: (1) additionality (sales are to increase United States agricultural exports above those that would have occurred in the absence of the program), (2) targeting (sales are to be targeted at market opportunities to displace competitors who are subsidizing their exports), (3) cost effectiveness (sales are to result in a net plus to the economy), and (4) budget neutrality (sales are not to increase budget outlays above those that would have accrued in the absence of the program).

The Food Security Act of 1985 provides specific authority for the export enhancement program and provides detailed program specifications. It also requires that no less than $1 billion worth of commodities be used under the program through September 30, 1988. In addition, in enacting the 1985 Act, Congress made clear its intention that the program be used in a broad fashion to ensure that United States agricultural exports were made available to traditional customers at competitive prices.

Despite the mandate from Congress, and contrary to its own stated criteria for implementing the program, the Administration refused to make the program generally available to all traditional U.S. grain purchasers and has failed to ensure that the program is used to reclaim for the United States its historic share of all markets lost to subsidized foreign competition.

A case in point is the failure of the Administration to make the program available to the Soviet Union. The decision to exclude the Soviets was made even though the Soviet Union is a traditional purchaser of United States grain, and despite the fact that U.S. wheat exports to the Soviet Union have been displaced by wheat exports from the European Community that are subsidized by as much as $90 per ton, according to the General Accounting Office. The chart below (prepared by Committee staff based on generally accepted figures) illustrates how the European Community has overtaken the Soviet market to the detriment of United States producers.

WHEAT IMPORTS BY THE SOVIET UNION

[Percent of market share held by EEC and U.S.]

Marketing year	EEC percent	U.S. percent
1976–77	0	62.9
1977–78	0	51.6
1978–79	0.1	59.1
1979–80	5.9	33.5
1980–81	4.8	20.1
1981–82	8.8	35.0

WHEAT IMPORTS BY THE SOVIET UNION—Continued

[Percent of market share held by EEC and U.S.]

Marketing year	EEC percent	U.S. percent
1982–83	16.9	15.1
1983–84	21.6	22.1
1984–85	22.8	21.7
1985–86	37.2	1.3

The targeted manner in which the Administration has implemented the program has, by discriminating against traditional U.S. customers and discouraging their purchases, slowed the effort to bring about a recovery in U.S. export sales. For the current year, U.S. agricultural exports are projected to total $27 billion, down from $31 billion last year and 38 percent below the record level of $43.7 billion established in 1981.

The bill would amend section 1127 of the Food Security Act of 1985 to require that participation in the export enhancement program be extended to those countries who traditionally purchase agricultural commodities from the United States, who maintain trade relations with the United States, and who, in the future, comply with the terms of any long-term grain agreement with the United States.

In extending participation in the program to any purchasing country with which the United States has a long-term grain agreement, it is expected that bonus commodities will be offered to such a country on sales involving purchases that may be required of the country under minimum purchase provisions of the agreement. Because commodities provided under the program may be included in such purchases, implementation of the provision will necessarily require consultations between the United States and the purchasing country so that the Secretary of Agriculture and other appropriate United States officials can be satisfied that the rate and level of purchases by the purchasing country in the course of each year are likely to ensure compliance with the terms of any agreement with the country.

The Committee recognizes that in certain circumstances commodities that are eligible for inclusion under the export enhancement program may not benefit from being used under the program.

For example, the European Community purchases nearly one-half of United States soybean exports. United States soybean exports to Europe have increased 18 percent so far this year even though soybeans themselves have not been offered under any export enhancement initiative and soybean products have been made available under only one program-assisted sale. Inclusion of soybeans or soybean products in certain cases may invite the European Community to introduce countervailing duties or other restrictions that it has occasionally proposed, actions that would likely have an adverse effect on United States soybean producers.

The Secretary of Agriculture has sufficient discretionary authority under section 1127 of the Food Security Act of 1985, even with the proposed amendment to that section embodied in H.R. 5242, to exclude soyeans from certain export enhancement initiatives if the

Secretary determines that in doing so, retaliatory actions may be avoided and soybean exports may be increased rather than decreased.

SECTION-BY-SECTION ANALYSIS

SECTION 1—SHORT TITLE

Section 1 provides that the bill may be cited as the "Agricultural Export Act of 1986".

SECTION 2—EXPORT ENHANCEMENT PROGRAM PARTICIPATION

Section 2 would rewrite subsection (b)(2) of section 1127 of the Food Security Act of 1985 ("the Act"), effective for the period ending September 30, 1988, to require that, to the extent that agricultural commodities and the products thereof are to be provided to foreign purchasers during any fiscal year, the Secretary of Agriculture must permit participation in the export enhancement program under section 1127 by foreign purchasers who (1) traditionally have purchased United States agricultural commodities and the products thereof; (2) maintain trade relations with the United States; and (3) after July 30, 1986, comply with minimum purchase requirements under long-term grain agreements.

Subsection (b)(2), as rewritten, also would require that, under the export enhancement program, the Secretary must give priority to interested foreign purchasers who (1) have traditionally purchased United States agricultural commodities and the products thereof and continue their historic levels of imports of United States agricultural commodities and the products thereof, or (2) begin to purchase United States agricultural commodities and the products thereof on an annual basis in quantities greater than the level of purchases in a previous representative period.

Currently, subsection (b)(2) of section 1127 requires that, in carrying out the export enhancement program, the Secretary must, to the extent that agricultural commodities and the products thereof are to be provided to foreign purchasers during any fiscal year, consider for participation all interested foreign purchasers, giving priority to those who have traditionally purchased United States agricultural commodities and the products thereof and who continue to purchase the commodities and the products thereof on an annual basis in quantities greater than the level of purchases in a previous representative period.

SECTION 3—EXPORT ENHANCEMENT PROGRAM REQUIREMENTS

Section 3 would amend subsection (i) of section 1127 of the Act to add a requirement that, to the maximum extent practicable, the Secretary must use an amount of commodities and products with a cumulative value of not less than $667,000,000 to carry out the export enhancement program in fiscal years 1986 and 1987.

Currently, subsection (i) of section 1127 provides that, during the period beginning October 1, 1985, and ending September 30, 1988, the Secretary (in carrying out the export enhancement program) must use agricultural commodities and the products thereof with a value of not less than $1,000,000,000, nor more than $1,500,000,000,

and that, to the maximum extent practicable, commodities must be used in equal amounts during each of the years during such period.

SECTION 4—REPORT AND RECOMMENDATIONS REGARDING PARTICIPATION IN THE EXPORT ENHANCEMENT PROGRAM

Section 4 would require the Secretary of Agriculture to report to Congress, by March 31, 1987, with a list of the countries that have traditionally purchased large volumes or a large percentage of its total imports of agricultural commodities and the products thereof from the United States but that have not participated in the export enhancement program. The report must include information that the Secretary may have, and the Secretary's views, with respect to why each country on the list did not participate in the program.

SECTION 5—EXPORT ENHANCEMENT PROGRAM (RESALE, TRANSSHIPMENT, AND USE OF COMMODITIES)

Section 5 would amend subsection (b)(4) of section 1127 of the Act, which currently requires the Secretary of Agriculture to take reasonable precautions to prevent the resale or transshipment, or use other than domestic use in the importing country, of the agricultural commodities or products thereof that are exported with the assistance of the export enhancement program. Section 5 would revise subsection (b)(4) to authorize the Secretary to make exceptions to the prohibitions against reseale, transshipment, or use other than domestic use.

COMMITTEE CONSIDERATION

HEARINGS

The Subcommittee on Department Operations, Research, and Foreign Agriculture met on July 29, 1986, to hold a public hearing on H.R. 5242, a bill to enhance exports of United States agricultural commodities, introduced by Mr. Daschle, for himself and Mr. Coelho.

In his opening remarks, the Chairman of the Subcommittee, Mr. Bedell, stated that the hearing constituted the third time within the past year that the Subcommittee had examined the implementation of the Export Enhancement Program (EEP), as authorized by the Food Security Act of 1985. Mr. Bedell pointed out that in October of 1985, and in April of 1986, the Subcommittee held public hearings to review the progress of the U.S. Department of Agriculture's efforts to implement the program.

Mr. Bedell explained that the implementation of the export enhancement program was not consistent with the Department's stated criteria for determining which countries should be made eligible for participation under the program. Mr. Bedell explained that the Department had announced that the program would be used to reclaim for the United States its historic share of certain international markets that have been displaced by subsidized foreign competition. Mr. Bedell noted that the Administration had excluded the Soviet Union from the program, despite the fact that the United States has lost grain sales to the Soviets because of sub-

sidized foreign competition, primarily from the European Community.

Mr. Roberts, ranking minority member of the subcommittee, expressed his support for opening the program to traditional customers of the United States, and said that failure to do so thus far had apparently encouraged the Soviet Union not to comply with the terms of its long-term grain agreement with the United States.

The Chairman of the full Committee, Mr. de la Garza, expressed his support for H.R. 5242, and pledged to promptly schedule consideration of the bill by the Committee.

Mr. Daschle, testifying in support of the bill, said that the success of the Food Security Act of 1985 depends heavily on an increase in exports, and that the Act provided the Administration with a wide array of tools to achieve that goal, including the export enhancement program. Mr. Daschle pointed to the continued slump in farm commodity exports as the primary reason that farmers are plagued by low prices and inadequate grain storage. According to Mr. Daschle, industry experts have estimated that the Department's restrictions placed on the export enhancement program will result in an annual loss of 5.8 million metric tons of wheat exports, accounting for nearly one-half of the total decline. Mr. Daschle faulted the Administration for its failure to fully use its broad powers, including the export enhancement program, to reverse this negative trend.

Mr. Winston Wilson, President of U.S. Wheat Associates, testified on the current outlook for wheat exports. Mr. Wilson stated that, although the Soviets may have reduced their purchases last year because of the relative price of United States wheat, the Soviets' failure this year to buy significant quantities of United States wheat could be attributed at least in part to the fact that they have been excluded from participation in the export enhancement program. Mr. Wilson also testified on the type and extent of the wheat export subsidies offered by countries that compete with the United States.

Mr. David Senter, National Director of the American Agriculture Movement, offered testimony that the export enhancement program was being implemented by the Administration in a manner that reflected foreign policy considerations to the detriment of agricultural exports. Mr. Senter urged the prompt passage of H.R. 5242 and called on the Department of Agriculture to maximize efforts to promote the export of agricultural commodities.

COMMITTEE MARKUP

The Committee held an open business meeting on Wednesday, July 30, 1986, pursuant to notice, to consider H.R. 5242. Chairman de la Garza called the meeting to order and recognized Mr. Bedell. Mr. Bedell asked that by unanimous consent the Subcommittee on Department Operations, Research, and Foreign Agriculture be discharged from further consideration of H.R. 5242, and that it be immediately considered by the Committee. Mr. Bedell's request was approved by the Committee without objection.

Mr. Bedell spoke in support of the bill, and explained that currently the Department of Agriculture is not allowing certain for-

eign purchasers that are good customers to get our best price under the export enhancement program. Mr. Glickman engaged in a discussion with Messrs. Daschle and Bedell, with respect to clarifying the meaning of provisions in the bill and its effect. Mr. Weaver said that the United States should stop all subsidized sales of grain to the Soviet Union. Mr. Daschle spoke in support of the bill, saying that, under the bill, our best customers, for example, the Soviet Union, the Peoples Republic of China, and Japan, would be allowed to participate in the export enhancement program. Mr. Thomas expressed his concern that not extending the program to our good customers amounts to a type of embargo on United States agricultural commodities. Mr. Smith said that the expanded program would help remove the current surplus of grain that keeps the market depressed. Mr. Whitley said that it does not make sense to deny the program to our biggest customers when they can simply buy from another country at competitive prices. Mr. Foley expressed concern that the subsidization of exports by countries rich enough to do so is detrimental to all. Mr. Evans of Iowa said that the certificate authority under the export enhancement program should be used so that the large grain companies will be sent out to find grain buyers.

Mr. Madigan expressed concern that Syria had been allowed to participate in the program in the past. Mr. Daschle said that only countries that have trade relations with the United States would be permitted to participate in the program, under the bill.

Mr. Daschle offered a substitute for the bill, for himself and Mr. Roberts. Mr. Daschle and Mr. Roberts explained that the substitute would add a desirable qualification to the program by requiring that recipients comply with requirements under any long-term grain agreements.

Mr. Evans of Iowa offered an amendment to the Daschle-Roberts substitute to allow the Secretary to approve the transshipment to other countries, or use for other than domestic use in the importing country, of agricultural commodities exported under the export enhancement program. After a discussion, the Committee agreed to the Evans of Iowa amendment without objection.

The Committee agreed to the Daschle-Roberts substitute, as amended, by voice vote. The Committee then agreed, by voice vote, that H.R. 5242, as amended, be reported to the House with the recommendation that the bill do pass. The staff was authorized to make any necessary clerical and conforming changes in the bill.

Administration Position

At the time of the filing of this report, the Committee had not received a report from the U.S. Department of Agriculture concerning H.R. 5242, as amended.

Budget Act Compliance (Section 308 and Section 403)

The provisions of clause 2(l)(3)(B) of Rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 (relating to estimates of new budget authority or new or increased tax expenditures) are not considered applicable. The estimate and comparison required to be prepared by the

Director of the Congressional Budget Office under clause 2(l)(3)(C) of Rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974 were not received by the Committee prior to the filing of this report.

The Committee does not expect the bill to have a significant budget effect because it will not increase the amount of funds available for the export enhancement program above levels assumed in the First Concurrent Resolution on the Budget for Fiscal Year 1987. Nor does the bill significantly alter the year-to-year use of funds available for the export enhancement program from levels assumed in the budget resolution. The bill simply mandates that certain interested foreign purchasers must be permitted to participate in the program.

Inflationary Impact Statement

Pursuant to clause 2(l)(4) of Rule XI of the Rules of the House of Representatives, the Committee estimates that enactment of H.R. 5242, as amended, will have no inflationary impact on the national economy.

Oversight Statement

No summary of oversight findings and recommendations made by the Committee on Government Operations under clause 2(b)(2) of Rule X of the Rules of the House of Representatives was available to the Committee with reference to the subject matter specifically addressed by H.R. 5242, as amended.

No specific oversight activities other than the hearings detailed in this report were conducted by the Committee within the definition of clause 2(b)(1) of Rule X of the Rules of the House of Representatives.

Changes in Existing Law

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

Food Security Act of 1985

* * * * * * *

[Note.—The amendment shown below to paragraph (2) of section 1127(b) would only be effective for the period ending September 30, 1988.]

DEVELOPMENT AND EXPANSION OF MARKETS FOR UNITED STATES AGRICULTURAL COMMODITIES

Sec. 1127. (a)(1) Notwithstanding any other provision of law, the Secretary of Agriculture (hereafter in this section referred to as the "Secretary") shall formulate and carry out a program under which agricultural commodities and the products thereof acquired by the Commodity Credit Corporation are provided to United States exporters, users, and processors and foreign purchasers at

no cost to encourage the development, maintenance, and expansion of export markets for United States agricultural commodities and the products thereof, including value-added or high-value agricultural products produced in the United States.

(2)(A) The term "agricultural commodities", as used in this section in referring to United States agricultural commodities, includes, but is not limited to—

(i) wheat, feed grains, upland cotton, rice, soybeans, and dairy products produced in the United States;

(ii) any other agricultural commodity produced in the United States that is determined by the Secretary of Agriculture to be in surplus supply and that can be purchased with funds available under section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935; and

(iii) products of the commodities and products described in clauses (i) and (ii) that are processed in the United States.

(B) United States agricultural commodities, as described in clause (ii) of subparagraph (A), may not be purchased with funds available under section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935, for the sole purpose of use under the program under this section; and such commodities, or products therefo, may not be furnished to a United States user, exporter, processor, or foreign purchaser under the program under this section except by mutual agreement of such user, exporter, processor, or purchaser and the Secretary.

(3) In carrying out paragraph (1), the Secretary may provide such commodities in order to make United States commodities more competitive and shall, to the extent necessary, provide such commodities and products—

(A) to counter or offset—

(i) the adverse effect on the export of a United States agricultural commodity or the product thereof of a subsidy (as defined in paragraph (4)) or other unfair trade practice of a foreign country that directly or indirectly benefits producers, processors, or exporters of agricultural commodities in such foreign country;

(ii) the adverse effects of United States agricultural price support levels that are temporarily above the export prices offered by overseas competitors in export markets; or

(iii) fluctuations in the exchange rate of the United States dollar against other major currencies; and

(B) in conjunction with an intermediate export credit program conducted by the Commodity Credit Corporation—

(i) for the export sale of breeding animals (including, but not limited to, cattle, swine, sheep, and poultry), including the cost of freight from the United States to designated points of entry in other nations; and

(ii) for the establishment of facilities in the importing nation to improve handling, marketing, processing, storage, or distribution of imported agricultural commodities (through the use of local currency generated from the import and sale of United States agricultural commodities

or the products thereof to finance all or part of such facilities).

(4) As used in paragraph (3)(A)(i), the term "subsidy" includes an export subsidy, tax rebate on exports, financial assistance on preferential terms, financial assistance for operating losses, assumption of costs or expenses of production, processing, or distribution, a differential export tax or duty exemption, a domestic consumption quota, or other method of furnishing or ensuring the availability of raw materials at artificially low prices.

(b) In carrying out the program established by this section, the Secretary of Agriculture—

(1) shall take such action as may be necessary to ensure that the program provides equal treatment to domestic and foreign purchasers and users of United States agricultural commodities and the products thereof in any case in which the importation of a manufactured product made, in whole or in part, from a commodity or the product thereof made available for export under this section would place domestic users of the commodity or the product thereof at a competitive disadvantage;

[(2) shall, to the extent that agricultural commodities and the products thereof are to be provided to foreign purchasers during any fiscal year, consider for participation all interested foreign purchasers, giving priority to those who have traditionally purchased United States agricultural commodities and the products thereof and who continue to purchase such commodities and the products thereof on an annual basis in quantities greater than the level of purchases in a previous representative period;]

(2) to the extent that agricultural commodities and products thereof are to be provided to foreign purchasers during any fiscal year, shall—

(A) permit participation in the program by foreign purchasers who (i) traditionally have purchased United States agricultural commodities and the products thereof, (ii) maintain trade relations with the United States, and (iii) after July 30, 1986, comply with minimum purchase requirements under long-term grain agreements; and

(B) give priority to interested foreign purchasers who (i) traditionally have purchased United States agricultural commodities and the products thereof and continue their historic levels of imports of United States agricultural commodities and the products thereof, or (ii) begin to purchase such commodities and the products thereof on an annual basis in quantities greater than the level of purchases in a previous representative period;

(3) shall encourage increased use and avoid displacing usual marketings of United States agricultural commodities and the products thereof;

(4) shall take reasonable precautions to prevent the resale or transshipment to other countries, or use for other than domestic use in the importing country, of agricultural commodities or the products thereof the export of which is assisted under this section *except as approved by the Secretary*; and

(5) may provide to a United States exporter, user, processor, or foreign purchaser, under the program, agricultural commodities of a kind different than the agricultural commodity involved in the transaction for which assistance under this section is being provided.

(c)(1) If a country does not meet the financial qualifications for export credit or credit guarantees provided by the Commodity Credit Corporation, the Secretary may provide to such country agricultural commodities and the products thereof acquired by the Corporation to the extent necessary to reduce the cost to such country of purchasing United States agricultural commodities and to allow such country to meet such qualifications.

(2) The Secretary shall review and adjust annually the quantity of commodities provided to a country under paragraph (1) in order to encourage such country to place greater reliance on increased use of commercial trade to meet the qualifications referred to in paragraph (1).

(d)(1) In carrying out this section, the Secretary may make green dollar export certificates available to commercial exporters of United States agricultural commodities and the products thereof.

(2) The Secretary shall make such certificates available under such terms and conditions as the Secretary determines appropriate.

(3) The amount of such certificates to be made available to an exporter may be determined—

(A) on the basis of competitive bids submitted by exporters; or

(B) by announcement of the Secretary.

(4)(A) An exporter may redeem a green dollar export certificate for commodities owned by the Commodity Credit Corporation.

(B) For purposes of redeeming such certificates, the Secretary may establish values for such commodities that are different than the acquisition prices of such commodities.

(5) Such certificates—

(A) may be transferred among commercial exporters of United States agricultural commodities; and

(B) shall be redeemed within 6 months after the date of issuance.

(e) The Secretary of Agriculture shall carry out the program established by this section through the Commodity Credit Corporation.

(f) Any price restrictions that otherwise may be applicable to dispositions of agricultural commodities owned by the Commodity Credit Corporation shall not apply to agricultural commodities provided under this section.

(g) The program established under this section shall be in addition to, and not in place of, any authority granted to the Secretary of Agriculture or the Commodity Credit Corporation under any other provision of law.

(h) The authority provided under this section shall terminate on September 30, 1990.

(i)*(1)* During the period beginning October 1, 1985, and ending September 30, 1988, the Secretary shall use agricultural commodities and the products thereof referred to in subsection (a) to carry out this section, except that the value of the commodities and prod-

ucts may not be less than $1,000,000,000, nor more than $1,500,000,000. [To the maximum extent practicable, such commodities shall be used in equal amounts during each of the years in such period.]

(2) To the maximum extent practicable, the Secretary shall (A) use such commodities and products to carry out this section in equal amounts during each of the years in the period specified in paragraph (1), and (B) use an amount of commodities and products with a cumulative value of not less than $667,000,000 to carry out this section during the period ending September 30, 1987.

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